759.

SUPREME COURT OF THE UNITED STATES.

No. 101.

HENRY D. BRIDGES, JOHN K. MABRAY, JAMES N. HARPER AND STERN SIMMONS, LATE MERCHANTS AND PARTNERS IN TRADE, UNDER THE NAMES, FIRM AND STYLE OF BRIDGES, MABRAY & CO., PLAINTIFFS IN ERROR,

vs.

WM. ARMOUR, HENRY LAKE AND FELIX WALKER, LATE MERCHANTS AND PARTNERS IN TRADE, USING THE NAMES, FIRM AND STYLE OF ARMOUR, LAKE & WALKER.

IN ERROR TO THE DISTRICT COURT U. S. FOR MISSISSIPPI, (N. D.)

INDEX.

	Original.	Print.
Writ of error	1	2
Citation and service	2-3	2
Style of court	4	3
Summons	4	3
Declaration	6	4
Defendants' pleas	8-9	5
Amended declaration	10	8
Defendants' pleas to amended declaration	12	9
Plaintiffs' demurrer, 1st and 3d pleas, and issue joined on the 2d	14	10
Demurrer sustained, and leave to defendants to plead over	14	11
Defendants' amended pleas	15	11
Replication	16	12
Verdict and judgments for plaintiffs	17	12
Defendants' bill of exceptions	18	13
Deposition of Felix Walker	24	16
Account current referred to in said deposition	28	21
Certificate of bankruptcy referred to in "	30	23
Writ of error bond	31	24
Clerk's certificate	32	25

J. & G. S. Gideon, printers.

Writ of error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the judge of the district court of the United States for the northern district of Mississippi, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea, which is in the said district court before you, between William Armour, Henry Lake, and Felix Walker, late merchants and partners in trade, using the names, firm, and style of Armour, Lake & Walker, plaintiffs, and Henry D. Bridges, John K. Mabray, James N. Harper, and Stern Simmons, late merchants and partners in trade, under the names, firm, and style of Bridges, Mabray & Co., defendants, a manifest error hath happened to the great damage of said Bridges, Mabray & Co., as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday in January next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the law and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, the second Monday of January, A. D. 1844, and of the independence of the United States the 68th.

[L. S.]

Issued the 20th day of June, 1844.

G. M. RAGSDALE, *Clerk.*

Filed in my office this 20th day of June, 1844.

G. M. RAGSDALE, *Clerk.*

Citation.

UNITED STATES OF AMERICA, *ss:*

To William Armour, Henry Lake, and Felix Walker, late merchants and partners in trade, using the names, firm, and style of Armour, Lake & Walker, or Snider, Hutchins & Gholson, their attorneys of record, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday in January next, pursuant [to] a writ of error filed in the office of the clerk of the district court of the United States for the northern

760.

district of Mississippi, wherein Henry D. Bridges, John K. Mabray, James N. Harper, and Stern Simmons, late merchants and partners in trade under the names, firm and style of Bridges, Mabray & Co., are plaintiffs, and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Samuel J. Gholson, judge of the said district court of the United States for the northern district of Mississippi, this 20th day of June, in the year of our Lord 1844.

S. J. GHOLSON.

Dec. 6, 1844. Executed. A. K. McCLUNG,
Mar. nor. dist. Miss.
By SAM. W. CARR.

Serving, &c.	2 50
Mileage,	75 00
	$77 50

Filed in my office this 20th day of June, 1844.

G. M. RAGSDALE, *Clerk.*

ARMOUR, LAKE & WALKER,
vs.
BRIDGERS, MABRAY & Co.

Pleas had at a district court of the United States for the northern district of Mississippi, began and held at the town of Pontotoc, in said district, on the first Monday of December, A. D. 1840; present the honorable Samuel J. Gholson, judge of said court.

Be it remembered that, on the 12th day of November, A. D. 1840, William Armour, Henry Lake, citizens of the State of Tennessee, and Felix Walker, a citizen of the State of Louisiana, sued out of the office of the clerk of the district court of the United States for the northern district of Mississippi, their certain summons, in the words and figures following, to wit:

"UNITED STATES OF AMERICA,
Northern district of Mississippi, ss:

The President of the United States, to the marshal of the northern district of Mississippi, greeting:

We command you without delay to summon Henry D. Bridgers, John K. Mabray, James N. Harper, and Stern Simmons, late merchants and partners in trade under the names, firm, and style of Bridgers, Mabray & Co., who are citizens of the State of Mississippi, that they be and appear before the district court of the United States, to be held at the town of Pontotoc, in and for the northern district of Mississippi, on the first Monday of December next, to answer to William Armour, Henry Lake, citizens of the State of Tennessee, and Felix Walker, citizen of the State of Louisiana, late merchants and partners in trade, using

the names, firm and style of Armour, Lake & Walker, of a plea of trespass on the case upon promises, to the damage of the said plaintiffs eight thousand dollars; and that they do file their plea of defence with the clerk of said court on or before the meeting of the same, or judgment will be given against them by default; and have then there this writ.

Witness the honorable Samuel J. Gholson, judge of the district court of the United States for the northern district of Mississippi, at Pontotoc, the 12th day of November, A. D. 1840, and in the sixty-fourth year of the independence of the United States.

G. M. RAGSDALE, *Clerk*.

Which said summons is endorsed as follows, to wit:

"This action of assumpsit is founded on the promissory note of the defendants, payable to the order of the plaintiffs, for three thousand one hundred and fifty-eight dollars and sixty-nine cents, dated the 26th day of September, 1840, and payable one day after the date thereof, said sum of money "being balance of book account, and bearing interest" "at eight per cent. per annum, from the first day of August last, (1840) until paid," signed "Bridgers, Mabray & Co., in sign." "The amount of said promissory note and interest at the rate specified therein, is the sum actually demanded. No bail required. Judgment will be required at the return term of this writ.

SNIDER, HUTCHINS & GHOLSON,
Attorneys for plaintiffs.

Upon which said summons the marshal made the following return, to wit:

"Received 20 November, 1840. A. G. WEIR.

1840, Nov. 20, duly executed on John K. Mabray.
1840, Nov. 23rd, duly executed on all the defendants.

A. G. WEIR,
Marshal nor. dist. Missis.
By JO. W. CARROLL, *Dep.*

Ex't'g and ret'g,	8 50
4 copies, -	2 00
Mileage, -	4 50
	$15 00

At the time of issuing said summons the plaintiffs by attorney filed their declaration in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of Mississippi:

United States district court for the northern district of the State of Mississippi, December term, A. D. 1840.

William Armour, Henry Lake, citizens of the State of Tennessee, and Felix Walker, citizen of the State of Louisiana, late merchants

and partners in trade, using the names, firm and style of Armour, Lake & Walker, plaintiffs in this suit, by attorney, complain of Henry D. Bridgers, John K. Mabray, James N. Harper, and Stern Simmons, late merchants and partners in trade under the names, firm and style of Bridgers, Mabray & Co., who are citizens of the State of Mississippi, defendants, in custody of the marshal, of a plea of trespass on the case upon promises: for that whereas the said defendants, by the name and description of "Bridgers, Mabray & Co., in sign," heretofore, to wit, on the twenty-sixth day of September, in the year of our Lord eighteen hundred and forty, (September 26th, 1840,) at, to wit, in the northern district of Mississippi aforesaid, made their certain promissory note in writing, bearing date the day and year aforesaid, and thereby then and there promised to pay, one day after the date thereof, to the order of the said plaintiffs, by their partnership names and description of Armour, Lake & Walker, the sum of three thousand one hundred and fifty-eight dollars and sixty-nine cents, for value received, (rec'd) this being *blance* of book account, and bearing interest on the above at eight per cent. per *anum* from the first day of August last, (1840,) until paid. By means whereof the said defendants then and there became liable to pay to the said plaintiffs the said sum of money in the said note specified according to the tenor and effect of the said note.

And whereas also the said defendants, on the first day of November, A. D. 1840, at the northern district of Mississippi aforesaid, were indebted to the said plaintiffs in the sum of five thousand dollars, for money by the said plaintiffs then and there lent to the said defendants at their request; and for other money by the said plaintiffs then and there paid to the use of the said defendants at their request; and for other money by the said defendants then and there had and received for the use of the said plaintiffs; and for other money found to be due from the said defendants to the said plaintiffs on an account then and there stated between them; and being so indebted the said defendants, in consideration thereof, then and there undertook and promised the said plaintiffs to pay them the said sum of money last mentioned on request.

Nevertheless the said defendants, though requested often, have not, nor hath either of them as yet paid the said several sums of money, or either of them, or any part thereof, to the said plaintiffs, but to pay the same the said defendants have hitherto wholly neglected and refused, and still do neglect and refuse, to the damage of the said plaintiffs eight thousand dollars; and therefore they bring their suit, &c.

SNIDER, HUTCHINS & GHOLSON,
Attos. for plaintiffs.

Defendants' plea to plaintiffs' declaration filed 7th of December, 1840, (which plea has been lost or mislaid.)

And afterwards, to wit, on the 14th day of December, 1840, the following proceedings were had in the foregoing cause, to wit:

ARMOUR, LAKE & WALKER }
60 vs.
BRIDGERS, MABRAY & Co. }

Monday, December the 14*th*, 1840.

This cause is continued by operation of law until the next term of this court.

Afterwards, to wit, on the 7th day of June, 1841, the defendants by attorney filed their pleas in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of Mississippi:

ARMOUR, LAKE & WALKER, }
vs.
BRIDGERS, MABRAY & Co. }

In the *circuit* court, June term, 1841.

And Henry D. Bridgers, one of the defendants in the above stated cause, comes and defends the wrong and injury, when, &c., and for plea says, he did not assume and promise in manner and form as the plaintiffs have above complained against him, and of this he puts himself upon the country.

And for further plea in this behalf, the said defendant says actio non, because he says the note above declared on is not his deed, nor done by his authority; of this he puts himself upon his country.

T. N. WAUL, *atto. for def't.*

And the said plaintiffs as to the first and second pleas above pleaded, whereof the said def'ts have put them*selfs* on the country, doth the like.

SNIDER, HUTCHINS & GHOLSON,
Atto's for pl'ff.

Personally appeared before the undersigned, a justice of the peace and commissioner of affidavits, in and for the county of Yalobusha and northern district of Mississippi, H. D. Bridgers, who makes oath and says, that the matters and things contained in the foregoing pleas are true in substance and in fact.

H. D. BRIDGERS.

Sworn to and subscribed this 1 June, 1841, before me,
E. P. STRATTON, *J. Peace.*

UNITED STATES OF AMERICA,
Northern district of Mississippi:

Circuit court, June term, 1841.

ARMOUR, LAKE & WALKER }
vs.
BRIDGERS, MABRAY & Co. }

And Stern Simmons and James N. Harper, come and defend the wrong and injury, when, &c., and for plea say, they did not assume

and promise in manner and form as the plaintiffs have above complained against them; and of this they put themselves upon the country.

And for further plea in this behalf the said defendants say, actio non, because they say the said promissory note sued on is not their deed, nor made by their authority; and of this they put themselves upon the country.

T. N. WAUL,
For def'ts Simmons & Har—.

And the said plaintiffs as to the first and second pleas above pleaded, whereof the said defendants have put themselves upon the country, doth the like.

S. & HUTCHINS & GHOLSON,
Atto. of pl'ffs.

Personally appeared before the undersigned Stern Simmons, who makes oath and says, the above pleas are true in substance and fact.

S. SIMMONS.

Sworn to and subscribed before me, this 5th day of June, 1841.

SAM. W. CARR, *Com'r for taking affidavits.*

Sworn to and subscribed by Jas. N. Harper, before me, 7th June, 1841, who makes oath and says that the foregoing pleas are true in substance and fact.

JAS. N. HARPER.

G. M. RAGSDALE, *Cl'k.*

Proceedings had in the foregoing cause at June term, 1841, to wit:

ARMOUR, LAKE & WALKER,
97 vs.
BRIDGERS, MABRAY & Co.

Tuesday, June the 8th, 1841.

This day came John Baker in open court, and acknowledged himself security for cost in this case on behalf of the plaintiffs; and cause continued until the next term of this court.

Proceedings had in the foregoing cause at December term, 1841, of said court, as follows, to wit:

ARMOUR, LAKE & WALKER,
33 vs.
BRIDGERS, MABRAY & Co.

Tuesday, December the 28th, 1841.

This cause is continued on application of the plaintiffs until the next term of this court.

And afterwards, to wit, on the 8th day of June, 1842, being a day of the June term of said court, the following proceedings were had in the foregoing cause, to wit:

ARMOUR, LAKE & WALKER,
22 vs.
BRIDGERS, MABRAY & Co.

Wednesday, June the 8th, 1842.

This cause is continued on affidavit of defendants until the next term of this court.

Afterwards, to wit, on the 9th day of December, 1842, being a day of the December term of said court, the following proceedings were had in the foregoing cause, to wit:

ARMOUR, LAKE & WALKER,
15 vs.
BRIDGERS, MABRAY & Co.

Friday, December the 9th, 1842.

In this case it is ordered by the court, that the parties have leave to amend pleadings, and that this cause be continued until the next term hereof.

Pursuant to which said leave of court the defendants, by attorney, filed on the 9th day of December, 1842, their amended declaration in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of Mississippi:

United States district court for the northern district of the State of Mississippi, December term, 1840.

William Armour, Henry Lake, citizens of the State of Tennessee, and Felix Walker, citizen of the State of Louisiana, late merchants and partners in trade, using the names, firm and style of Armour, Lake & Walker, plaintiffs in this suit, by attorney, complain of Henry D. Bridgers, John K. Mabray, James N. Harper and Stern Simmons, late merchants and partners in trade under the names, firm and style of Bridgers, Mabray & Co., who are citizens of the State of Mississippi, defendants in custody of the marshal, of a plea of trespass on the case upon promises.

For that whereas, the said defendants, by the names and description of "Bridgers, Mabray & Co., in sign," heretofore, to wit, on the twenty-sixth day of September, in the year of our Lord eighteen hundred and forty, (September 26th, 1840,) at, to wit, in the northern district of Mississippi aforesaid, made their certain promissory note in writing, bearing date the day and year aforesaid, and thereby then and there promised to pay, one day after the date thereof, to the order of the said plaintiffs by their partnership names and description of Armour, Lake & Walker, the sum of three thousand one hundred and fifty-eight dollars and sixty-nine cents, for value received (rec'd,) this being balance of book acc't, and bearing interest on the above at eight per cent. per *anum* from the first day of August *last* (1840,) until paid. By means whereof, the said defendants then and there became liable to pay to the said plaintiffs the said sum of money in said note specified according to the tenor and effect of the said note. And whereas, also, the said defendants on the first day of November, A. D. 1840, at the northern district of Mississippi aforesaid, were indebted to the said plaintiffs in the sum of five thousand dollars, for money by the said plaintiffs then and there lent to the said defendants at their request, and for other money by the said plaintiffs then and there paid to the use of the said defendants at

their request, and for other money by the said defendants then and there had and received for the use of the said plaintiffs, and for other money found to be due from the said defendants to the said plaintiffs, on an account then and there stated between them; and being so indebted, the said defendants, in consideration thereof, then and there undertook and promised the said plaintiffs to pay them the said sum of money last mentioned on request.

And whereas also the said defendants afterwards, to wit, on the first day of December, A. D. 1840, at the northern district of Mississippi aforesaid, were indebted to the said plaintiffs in the further sum of three thousand dollars, for the work and labor, care and diligence, and attendance of the said plaintiffs by them before that time done, and performed, and bestowed, as the agent of and for the defendants, and on their retainer, and for certain commission and reward due and of right payable from the defendants to the said plaintiffs in respect thereof; and being so indebted the said defendants in consideration thereof afterwards, to wit, on the day and year last aforesaid, in the northern district aforesaid, undertook, and then [and] there promised the said plaintiffs to pay them the said last mentioned sum of money when they, the said defendants, should be thereunto afterwards requested.

Nevertheless the said defendants, though requested often, have not, nor hath either of them as yet paid the said several sums of money or either of them, or any part thereof, to the said plaintiffs, but to pay the same the said defendants have hitherto wholly neglected and refused, and still do neglect and refuse, to the damage of the said plaintiffs eight thousand dollars; and therefore they bring their suit, &c.

SNIDER, HUTCHINS & GHOLSON,
Attos. for plaintiffs.

Defendants' pleas to plaintiffs' amended declaration, filed at June term, 1843, in the words and figures following, to wit:

"THE UNITED STATES OF AMERICA,
Northern district of Mississippi:

District court U. States, June term, A. D. 1843.

ARMOR, LAKE & WALKER,
vs.
BRIDGERS, MABRAY & Co.

And the defendants, Henry D. Bridgers, James N. Harper and Stern Simmons, come and defend the wrong and injury when, &c., and for plea say to the said last count in plaintiffs' declaration mentioned, that the assumptions and promises therein made, if any such were made, were not within three years next preceding the filing said amended declaration, and this the defendants are ready to verify; wherefore they pray judgment, &c. And for further plea in this behalf the defendants say, actio non, because they say they did not assume and promise in manner and form as the plaintiffs have alleged; and of this they put themselves upon the country.

And for further plea in this behalf the defendant says, actio non, because they say that, after making the said several promises and undertakings *in the* in all but [the] first count in plaintiffs' declaration mentioned, and before the filing said declaration the said John K. Mabray, one of the defendants, then and there made and delivered his promissory note in writing, bearing date on the 26th of September, 1840, whereby he promised to pay to the order of the plaintiffs thirty-one hundred and fifty-eight $\frac{69}{100}$ dollars, one day after the date thereof, with interest at the rate of 8 per cent. per *anum* from the first of August last (1840) until paid; and the plaintiffs *and the plaintiffs* then and there accepted and received the said note in full satisfaction of the said sum of money in the said declaration mentioned; and by reason thereof he, the said Mabray, then and there became, and still is, liable to pay the said sum of $3,158 69 cents, according to the tenor and effect of said note which the defendants *ix* ready to verify; wherefore they pray judgment, &c.

WAUL, *for defts.*

And afterwards, to wit, on the 12th day of June, 1843, being a day of the June term of said court, the following proceedings were had in the foregoing cause, to wit:

Monday, June the 12th, 1843.

"ARMOUR, LAKE & WALKER,
15 vs.
BRIDGERES, MABRAY & Co.

By consent of parties, it is ordered by the court that this cause be continued.

And afterwards, to wit, on the 5th day of December, 1843, being a day of the December term of said court, the following proceedings were had in the foregoing cause, to wit:

Tuesday, December the 5th, 1843.

"ARMOUR, LAKE & WALKER,
15 vs.
BRIDGERS, MABRAY & Co.

This cause is continued by consent of parties until the next term of this court.

Plaintiffs' demurrer to defendants' pleas, filed at June term, 1844, in the words and figures following, to wit:

"ARMOUR, LAKE & WALKER,
vs.
BRIDGERS, MABRAY & Co.

In district United States for northern district of Mississippi.

And the said plaintiffs, as to the 1st and 3d pleas of the defendants to the last count of the plaintiffs in their amended declaration say, precludi non, because they say that the said pleas are not sufficient in law, and this they are ready to verify; wherefore they pray judgment, &c.

SNIDER & HUTCHINS,
For plaintiffs.

And as to the second plea of said defendants to said last count, whereof the said defendants have put themselves upon the country, the said plaintiffs do the like.

SNIDER & HUTCHINS,
For plaintiffs.

And afterwards, to wit, on the 5th day of June, 1844, being a day of the June term of said court, the following proceedings were had in the foregoing cause, to wit:

Wednesday, June 5th, 1844.

"ARMOUR, LAKE & WALKER,
15 vs.
BRIDGERS, MABRAY & Co.

This day came the parties by their attorneys, and then came on to be heard plaintiffs' demurrer to defendants' pleas, and after argument, it is considered by the court that the same be sustained, and that leave be granted to plead over.

Pursuant to which said order of court the defendants, by attorney, filed on the 6th day of June, 1844, their amended pleas in the words following, to wit:

"District court United States, June term, 1844.

ARMOR, LAKE & WALKER,
vs.
BRIDGERS, MABRAY & Co.

And the defendants, Bridgers, Harper & Simmons, upon judgment of respd. ouster, come and defend the wrong and injury, when, &c., and say, that after making the said several promises and undertakings in all but the first count in plaintiffs' declarations mentioned, and before the institution of said suit, to wit, on the 26th of September, A. D. 1840, the plaintiffs then and there agreed with the defendants to receive, and the defendants did then and there deliver, or cause to be delivered, to the plaintiffs a certain promissory note, for the sum of thirty-one hundred and fifty-eight and $\frac{60}{100}$ dollars, due one day after date, and dated the 26 of September, 1840, drawn by one John K. Mabray; and the plaintiffs then and there accepted and received the said note in full satisfaction of the said sum of money in the said declaration mentioned, which the defendants are ready to verify; wherefore they pray judgment, &c.

And for further plea in this behalf upon judgment of respdr. ouster to defendants' 3d plea, said defendants say, actio non, because they say that, after the promises and undertakings in all save the first count in plaintiffs' declaration mentioned were made, if any such were made, by defendants, together with one John K. Mabray, as merchants and partners in trade; and the defendants aver that, after the dissolution of said partnership, and after full notice thereof to plaintiffs, to wit, on the 26 of September, A. D. 1840, the said plaintiffs agreed to receive, and actually did receive, the promissory note of said John K. Mabray, bearing

date the 26th of September, 1840, whereby he promised to pay to the order of the plaintiffs thirty-one hundred and fifty-eight and $\frac{69}{100}$ dollars, one day after the date thereof, with interest at the rate of eight per cent. per annum from the first of August last (1840) until paid, in full satisfaction of said promises and assumptions; and by reason thereof he, the said Mabray, then and there became and is still liable to pay the said sum of $3,158 69, according to the tenor and effect of said note, which the defendants are ready to verify; wherefore they pray judgment, &c.

WAUL, *for defts.*

To which said pleas the plaintiffs by attorney filed their replication as follows, to wit:

"And the said plaintiffs, as to the said plea of the said defendants, Bridgers, Harper and Simmons, by them first pleaded on judgment of respondeat ouster say, that they precludi non, because they say they did not agree with the said defendants to receive of them, the said defendants, the promissory note of one John K. Mabray, as the said defendants have in their plea alleged, nor did the said plaintiffs accept and receive of the said defendants the promissory note of the said John K. Mabray, in satisfaction of the said sums of money in the declaration mentioned, as is in said plea alledged; and of this they put themselves upon the country, &c.

"And the defendants doth [the] like."

And the said plaintiffs, as [to] the said plea of the said defendants secondly as above pleaded, say, precludi non, because they say that they did not agree with the said John K. Mabray to receive the note of him, the said John K. Mabray above, nor did they accept and receive such note in satisfaction of said promises and assumptions as the said defendants in their said plea have alleged; and of this they put themselves upon the country, &c.

SNIDER & HUTCHINS & GHOLSON,
For plaintiffs.

And the defendants doth like. WAUL.

And also afterwards, to wit, on the 6th day of June, 1844, being a day of the June term of said court, the following proceedings were had in the foregoing cause, to wit:

Thursday, June the 6th, 1844.

"ARMOUR, LAKE & WALKER,
vs.
BRIDGERS, MABRAY & Co.

This day came the parties by their attorneys, and thereupon came a jury of good and lawful men, to wit, jury No. 1, being John L. Allen, and eleven others, who being elected, tried, and sworn well and truly to try the issue joined, upon their oaths do say, that they find the issue in favor of the plaintiffs, and assess their damages to the sum of three thousand seven hundred and sixty-three dollars and eighty-two cents.

It is therefore considered by the court that plaintiffs recover of said defendants the damages aforesaid by the jury assessed, and also the cost in this cause expended.

Defendants' motion filed June the 8th, 1844, in the words following, to wit:

"ARMER, LAKE & WALKER,
15 vs.
BRIDGERS, MABRAY & Co.

Motion for a new trial.

Because the jury found contrary to law and evidence.

2nd. Because the court erred in permitting the testimony of Felix H. Walker to go to the jury.

WAUL & HARRIS,
For motion.

Proceeding had in the foregoing cause in said court on Monday, June the 10th, 1844, as follows, to wit:

"ARMOUR, LAKE & WALKER,
15 vs.
BRIDGERS, MABRAY & Co.

Defendants' motion for a new trial in this case is withdrawn.

Defendants' bill of exceptions as follows, to wit:

UNITED STATES OF AMERICA,
District court for the northern district of Mississippi,
June term, A. D. 1844.

Bill of exceptions.

United States of America, district court for the northern district of Mississippi, June term, A. D. 1844.

"ARMOR, LAKE & WALKER,
vs.
BRIDGERS, MABRAY & Co.

Be it remembered, that on the trial of the above stated case the plaintiffs offered to read in evidence to the jury the deposition of Felix Walker, one of the plaintiffs, in the words following, to wit:

"ARMOUR, LAKE & WALKER,
vs.
BRIDGERS, MABRAY & Co.

Interrogatories to be propounded to Felix Walker, a witness on behalf of the plaintiffs in the above stated case now pending and undetermined in the district court of the United States for the northern district of Mississippi; also cross-interrogatories to be propounded to said witness on behalf of the said defendants. And it is hereby agreed by the respective counsel of the parties aforesaid, that the deposition of the said Felix Walker, a citizen of New Orleans in the State of Louisiana, taken in answer to the interrogatories and cross-interrogatories hereto an-

nexed, may be read upon the trial of the above stated cause without any exceptions being taken to the non-issuance of a commission to take the same, or the want of notice to either or any of the said defendants; said deposition to be taken before M. M. Cohen, United States commissioner for the city of New Orleans, or any other commissioner of affidavits, or judge, residing in said city. Defendants' cross-interrogatories to be made out and handed to Snider & Hutchins by 1st May, '44.

March 28, 1844.

SNIDER & HUTCHINS & GHOLSON,
For plaintiffs.
T. N. WAUL, *For defendants.*

Interrogatory 1. Are you or are you not acquainted with the parties to this action?

Interrogatory 2. Do you or do you not know what individuals constitute the firm of Bridgers, Mabray & Co.?

Interrogatory 3. Did or did not the firm of Bridgers, Mabray & Co. draw upon the firm of Amour, Lake & Walker? If so, state if the drafts of Bridgers, Mabray & Co. were accepted; also how long the drafts had to run, and how they were to be provided for.

Interrogatory 4. Did or did not the firm of Bridgers, Mabray & Co. comply with their agreement with Armour, Lake & Walker to meet their drafts accepted by the latter?

Interrogatory 5th. Was or was not a bill of lading for 195 bales of cotton received by Armour, Lake & Walker of Bridgers, Mabray & Co., if so, state all you know about the cotton named in said bill of lading.

Interrogatory 6. Do you or do you not know if any demand was ever made of Armour, Lake & Walker, for the proceeds of 80 bales of cotton shipped them by Bridgers, Mabray & Co.; if so, state of what 80 bales, by whom demanded, and what, if any thing occurred between Armour, Lake and Walker and any one else respecting the proceeds of said 80 bales cotton.

Interrogatory 7. Are you or are you not aware of any conversation between Armour, Lake & Walker, and any one else in relation to certain drafts drawn by Bridgers, Mabray & Co. on the former and accepted by them? If so, state with whom, and what was said, and what drafts were the subject of conversation.

Interrogatory 8. Did or did not Armour, Lake & Walker, after the maturity of the drafts, receive any cotton from James N. Harper and Stern Simmons? If so, state if any demand was made for the proceeds, and how they were applied.

Interrogatory 9. State, if you can, what drafts were accepted by Armour, Lake & Walker for Bridgers, Mabray & Co., if any, from December, 1838 to April or May, 1840, in whose favor drawn, about what time drawn, when due, and for what amount each; also, whether or not said drafts were taken up by Armour, Lake & Walker.

Interrogatory 10. Do you or do you not know where Armour, Lake & Walker were doing business as commission merchants during the

years 1838, 1839 and 1840? If so, state the place; also, if you can, mention the usual commissions allowed at that place for accepting drafts and advancing money.

Interrogatory 11. Do you or do you not know if Armour, Lake & Walker advanced for Bridgers, Mabray & Co. sums of money other than upon drafts? If so, state what sums, when advanced, for what purposes, and by whose directions.

Interrogatory 12. Do you or do you not know if the payment of any balance due by H. D. Bridgers and Mabray to Armour, Lake & Walker, was assumed by Bridgers, Mabray & Co.? If so, state the amount of such balance, and whether or not the account of H. D. Bridgers and Mabray was balanced by such assumpsit; also, state the time of such assumpsit if any.

Interrogatory 13. Do you know whether Armour, Lake & Walker presented to Bridgers, Mabray & Co., or to any members of that firm, their account with the firm? If so, state if you can whether or not the items heretofore referred to were included in said account, to whom and about what time was the said account presented, and what was then said by the member or members in relation thereto; was the same objected to, or not?

Interrogatory 14. State whether or not you have any interest in the event of this suit; if none, state in what manner your interest has been caused to cease; and please also file with your deposition a properly authenticated copy of your discharge in bankruptcy, if you have any.

Interrogatory 15. Do you or do you not know what disposition was made, by Armour, Lake and Walker, of the drafts drawn upon them by Bridges, Mabray & Co., in favor of William Alling and Blackwell & McGrath? Say to whom given up, if to any body, or what became of them.

SNIDER, HUTCHINS & GHOLSON,
Atto's for pl'ffs.

ARMOUR, LAKE & WALKER
vs.
BRIDGERS, MABRAY & Co.

Cross-interrogatories.

Cross-interrogatory 1. If you know who constitute the firm of Bridgers, Mabray & Co., state your means of information, from whom you heard it, and the words used by them.

Cross-interrogatory 2d. State if there was not an agreement between William Armour, of the firm of Armour, Lake & Walker, and James N. Harper and Stern Simmons, to the effect if they would send their cotton to the house of Armour, Lake & Walker, it should not be appropriated to the payment of the debts of Bridgers, Mabray & Co.; if so, state what Armor said to you on the subject, and send the letters you received from said Armor, and if they are lost or destroyed, state their contents.

Cross-interrogatory 3d. State if James N. Harper or Stern Simmons

assumed the debt of H. D. Bridgers and Mabray; if so, state the words they used, the time and place, and what induced them to make such assumption.

Cross-interrogatory 4th. State who was interested in the firm of Armor, Lake & Walker, at the said time that the drafts were accepted or subsequent thereto, until the year 1841. Whether Henry Irvin did not have an amount of money in said firm, for the use of which he was to receive a certain amount of profit; if so, state when said deposite was made, what its amount, and what per cent. on the profits were to be received by him.

Cross-interrogatory 5th. State who are now interested in the said suit. Has or not William Armor transferred his interest in said claim? If so, to whom, and for what consideration. Has not Mr. Lake transferred his interest in said claim? If so, to whom, and for what consideration.

Cross-interrogatory 6th. State if in the conversation that took place between yourself and Jas. N. Harper, in presence of Thomas J. Calhoun and Thomas & N. Bridgers, is not the conversation alluded to in your answer to the 13th direct interrogatory; if so, state if Jas. N. Harper did not refuse to look at the account, stating you had no use for him excepting to take up his cotton or call on him for money; and further, when you asked him if you might arrange it with Jno. K. Mabray, he did not reply that he was the only man to whom you should look, and that he never gave any authority to contract the debt, and never would pay any part of it.

Cross-interrogatory 7th. State when you called on Jno. K. Mabray to settle the claim, if he did not state to you that he had no authority to bind Harper and Simmons, and that you replyed that Harper had told you to call on him, and that he would take the note from him in liquidation of said account, and risk its recovery.

Cross-interrogatory 8th. State if James N. Harper and Stern Simmons have ever been in N. Orleans at the same time since the transaction between Armor, Lake & Walker, and Bridgers, Mabray & Co.; if so, when.

WAUL, *atto. for*
HARPER & SIMMONS.

Deposition of Felix Walker, as referred to in defendants' bill of exceptions, viz:

"Deposition of witness, produced, sworn, and examined, by virtue of the agreement set forth in the captions of the interrogatories hereto annexed on the twenty-third day of May, A. D. 1844, in the city of New Orleans, State of Louisiana, before me, M. M. Cohen, United States commissioner, named in the caption to the interrogatories hereto annexed, in a certain cause now pending and undetermined in the district court of the United States for the northern district of Mississippi, between Armour, Lake & Walker, plaintiffs, and Bridgers, Mabray & Co., defendants—Felix Walker being produced and sworn, answers in this cause as follows:

Answer to 1st interrogatory—I am acquainted with the parties to this suit.

Answer to second interrogatory—Henry D. Bridgers, John K. Mabray, James N. Harper, and Stern Simmons, constituted the firm of Bridgers, Mabray & Co.; so each of them represented themselves to me.

Answer to 3rd interrogatory—Bridgers, Mabray & Co. did draw sundry drafts on Armour, Lake & Walker, and they were accepted by them (Armour, Lake & Walker) as per account current herewith filed; they, Bridgers, Mabray & Co., were to provide for the said drafts by shipments of cotton to Armour, Lake & Walker.

Answer to 4th interrogatory—Bridgers, Mabray & Co. did not comply in full with their agreement, which the account above referred to will show.

Answer to 5th interrogatory—Armour, Lake & Walker received by mail, on the 15th March, 1839, a bill of lading for 195 cotton, (viz. 156 marked B. M. & Co., 22 A. S., 14 R. C., and 3 M. C.,) ship'd by Chisholm, Minter & Co. of Troy, Miss., pr. keelboat "Osage," (with the priviledge of its being reship'd by some good steamboat to New Orleans,) for and on account of Bridgers, Mabray & Co. On the 18th March, 1839, the steamboat "Comanche" arrived with the 195 bales cotton, but of the mark of 156 B. M. & Co. there were 115 bales consigned to Pickett, Banks & Co.; the balance of the said mark of B. M. & Co., say 41 bales, together with the 22 A. S., 14 R. C., and 3 M. C., making 80 bales, were consigned to Armour, Lake & Walker, as per B. K. for the reshipment at Greenwood, Miss. James N. Harper, *corner* passenger on the "Comanche" at the same time, and I called upon him to know by whose authority a part of the 195 bales cotton, ship'd to us for acct. of Bridgers, Mabry & Co., had been changed, and showed him the B. K. for the 195 bales. He answered that it was done by his order, that part of the 195 bales belonged to him individually, and the balance belonged to the firm of Bridgers, Mabray & Co., of which he represented himself as being a copartner.

Answer to 6th interrogatory—James N. Harper, representing himself as being a member of the firm of Bridgers, Mabray & Co., demanded of Armour, Lake & Walker the proceeds of the 80 bales cotton, being a part of the 195 bales as above referred to, which they (Armour, Lake & Walker) refused to pay him, inasmuch as they were under acceptance for the said Bridgers, Mabray & Co. to a large amount. About a month after this conversation took place between James N. Harper and Armour, Lake & Walker, Stern Simmons and John K. Mabray came to New Orleans, representing themselves as members of the firm of Bridgers, Mabray & Co., and also demanded the proceeds of the said 80 bales, which Armour, Lake & Walker refused to comply with, alleging that they would hold the amount to meet certain dfts. drawn by Bridgers, Mabray & Co. on, an[d] accepted by, them, Armour, Lake & Walker.

Answer to 7th interrogatory—When James N. Harper was in New Orleans about the 18th or 20th of March, 1839, and demanded the pro-

ceeds of the 80 bales cotton above referred to, Armour, Lake & Walker proposed to pay him the amount, provided that he would draw new dfts. in the name of Bridgers, Mabray & Co., and have them accepted by some house whom the holders of the dfts. already drawn by Bridgers, Mabray & Co., and accepted by Armour, Lake & Walker, would be willing to receive in lieu thereof; to this the said Harper agreed, but he was not able to get such acceptors as the *as the* holders of the dfts. charged in the acct. of Armour, Lake & Walker against Bridgers, Mabray & Co., on the 15th of December, 1838, were willing to receive in place of Armour, Lake & Walker's acceptances; after which Harper made many sacred promises, that if Armour, Lake & Walker would pay him the proceeds of the 80 bales cotton (as his said firm of Bridgers, Mabray & Co. were in great want of money, he would be under renewed obligations to them, (Armour, Lake & Walker,) and would consider himself in honor bound to meet the said dfts. of Bridgers, Mabry & Co., and would do so even if it took his individual crop the ensuing season to pay the same. About the *midde* of April, 1839, Sterne Simmons and John K. Mabry came to New Orleans, and also demanded the proceeds of the said 80 bales cotton of the said Armour, Lake & Walker, which they (Armour, Lake & Walker) refused to pay, unless they, Bridgers, Mabray & Co., would comply with the proposition made to J. N. Harper, which proposition they endeavored to have complied with in the way of getting new acceptors, which they were not able to do to the satisfaction of the holders of the dfts. already referred to.

Answer to 8th interrogatory—Armour, Lake & Walker did receive cotton of James N. Harper and Sterne Simmons, after the maturity of the dfts. of Bridgers, Mabry & Co., specified in the acct. in answer to 3rd interrogatory, the balance of the proceeds of both J. N. Harper and Sterne Simmon's cotton was placed to the credit of the acct. of Bridgers, Mabry & Co., Sterne Simmons drew a draft on Armour, Lake & Walker for $324 80, which was presented and acceptance refused by them on the 26th March, 1840. There was a dft. from J. N. Harper for I believe about $100 presented in the summer of 1840, which was also refused to be paid by Armour, Lake & Walker. No farther demand was made by either James N. Harper or Sterne Simmons, for the balance of their proceeds.

Answer to 9th interrogatory—Armour, Lake & Walker did accept sundry dfts. drawn by Bridgers, Mabry & Co., as specified in the acct. current filed in answer to 3rd interrogatory; Armour, Lake & Walker did take up all of said dfts.

Answer to 10th interrogatory—Armour, Lake & Walker were doing business as commission merchants in the city of New Orleans, State of Louisiana, in the years 1838, 1839, and 1840. The usual charge made by commission merchants in New Orleans for accepting dfts. or bills is 2½ per cent., and the same for advancing money.

Answer to 11th interrogatory—Armour, Lake & Walker paid sundry amounts for Bridgers, Mabry & Co. by the direction of John K. Mabry, (exclusive of the dfts. charged in acct.,) out of $462 50 deposited by

him with Armour, Lake & Walker, for acct. of Bridgers, Mabry & Co., as is fully specified in the acct. current rendered in answer to 3rd interrogatory.

Answer to 12th interrogatory—When Sterne Simmons and John K. Mabray came to New Orleans about the middle of April, 1839, they called for a statement of their acct. with Armour, Lake & Walker, which accts. were made out and presented to them; the balance due by H. D. Bridgers and Mabry to Armour, Lake & Walker, $1,682 83, being consolidated with the acct. of Bridgers, Mabry & Co., which accts. were rec'd by Sterne Simmons and J. K. Mabry, and to which no objection was made.

Answer to 13th interrogatory—On the 13th of April, 1840, Armour, Lake & Walker made up the acct. of Bridgers, Mabry & Co., embracing all the items from the 15th December, 1838, to that time, (15th April, 1840,) and enclosed the said account to Bridgers, Mabry & Co. at Preston, Miss., by the hands of Capt. John Baker, on the 22nd April, 1840, to which Armour, Lake & Walker rec'd no reply. In the month of September, 1840, I, Felix Walker, of the firm of Armour, Lake & Walker, presented the said account, including all the items up to that time, to H. D. Bridgers, of the firm of Bridgers, Mabry & Co., to which no objection was made. He (H. D. Bridgers) said the firm was not then in a condition to pay the said acct. I requested that Bridgers, Mabray & Co. close the acct. by note. He then replied that he had no objection to close the acct. by note, but he was particularly desirous that the acct. should be presented to J. K. Mabry, as he had not paid his proportion, and if he could not pay it in cash, for him to make the note, by doing which he (Mabry) would feel the necessity of taking it up, for he (Mabry) had not paid his proportion, whereas James N. Harper and Sterne Simmons had paid nearly all that had been paid on said acct. against Bridgers, Mabry & Co. The next day I saw James N. Harper, and told him I wished the acct. of Armour, Lake & Walker against Bridgers, Mabry & Co. settled. He said he had already paid a large sum for Bridgers, Mabry & Co., and would pay no farther, unless compelled by law to do so; said I might call on J. K. Mabry for balance of said acct., and any settlement I could make with him (Mabry) would be satisfactory to him; that all I could get out of Mabry would lessen his (Harper's) liability that much. During all my conversation with either H. D. Bridgers, J. K. Mabry, Jas. N. Harper, or Sterne Simmons, relative to the acct. of Bridgers, Mabry & Co., no objection was ever made to its correctness, neither was there any denial by either of them to their obligation to pay the same.

Answer to 14th interrogatory—I have no interest in the event of this suit; my interest ceased when I filed my schedule in bankruptcy on the 30th December, 1842; I herewith file a copy of my discharge in bankruptcy.

Answer to 15th interrogatory—The dfts. drawn by Bridgers, Mabry & Co. on, and accepted by, the said Armour, Lake & Walker, in favor of Blackwell & McGrath, for 1124 45, and the one in favor of Wm.

Alling for $984 31, were both paid by Armour, Lake & Walker, and were given up to Sterne Simmons and John K. Mabry, they both being present together in the counting room of Armour, Lake & Walker, in the city of New Orleans, on the 20th April, 1839.

Answer to 1st cross-interrogatory—In answer to this I refer you to my answer to 2nd direct interrogatory; as to the precise words used by the parties I do not now recollect.

Answer to 2nd cross-interrogatory—I know of no agreement between Wm. Armour and James N. Harper to the effect that, if J. N. Harper and Sterne Simmons would ship their cotton to the house of Armour, Lake & Walker, that it would not be applied towards the payment of the debt against Bridgers, Mabry & Co. Wm. Armour's letter to me made no mention of any agreement of the kind between said Harper, Simmons, and himself.

Answer to 3rd interrogatory—On the 17th April, 1839, the balance of the account due by H. D. Bridgers & Mabry was consolidated with the acct. of Bridgers, Mabry & Co. The same was given to Sterne Simmons and J. K. Mabry, they both being present in the counting-room of Armour, Lake & Walker, in New Orleans, and no objection to the said consolidation was made. Subsequent to that time, I had a conversation with J. N. Harper, and no objection was made to it by him.

Answer to 4th cross-interrogatory—Wm. Armour, Harry Lake, and myself were alone interested in the firm of Armour, Lake & Walker; Henry Irwin had no monied interest or deposite in said concern of Armour, Lake & Walker, nor was he to receive any portion of the profits.

Answer to 5th cross-interrogatory—I do not know who is now interested in the said suit, as it was surrendered in my schedule for the benefit of the creditors of Armour, Lake & Walker. I do not know that Wm. Armour and Henry Lake have transferred their claim to said debt against Bridgers, Mabry & Co.

Answer to 6th cross-interrogatory—The conversation with J. N. Harper, alluded to in my answer to 13th interrogatory, was in presence of Thos. & N. Bridgers and Thos. Simmons, and not F. J. Calhoun, as well as I now recollect. At that time I did not present the acct. of Bridgers, Mabry & Co. He said he would pay no more on it, unless compelled by law; that I might go to J. K. Mabry, who bought the goods, and who ought to pay for them.

Answer to 7th cross-interrogatory—When I called on J. K. Mabry for the balance of the account due by Bridgers, Mabry & Co. he said he had no money, and could not pay at that time; I told him I wished the account closed by note if he could not pay it; he said he could not give a note for the acct., as the firm of Bridgers, Mabry & Co. was dissolved. I told him he could sign the note in liquidation, which was the proper way, for it was closing an acct. which was made during the existence of the partnership of Bridgers, Mabry & Co., that I would risk its recovery. He then signed the note.

Answer to 8th cross-interrogatory. I do not know that Sterne Sim-

mons and James N. Harper were ever in New Orleans at the same time. James N. Harper and Thomas Simmons were in New Orleans together in the spring or summer of 1840.

FELIX WALKER.

I, M. M. Cohen, commissioner as aforesaid, do hereby certify that Felix Walker, the deponent, was by me sworn to declare the truth on the questions put to him in the cause; that the interrogatories and cross-interrogatories were produced to him and read to him by me, and his answers thereto taken by me and subscribed by *by* him in my presence, on the day and at the place in that behalf first aforesaid.

M. M. COHEN, *United States Commissioner.*

"*Acc't current referred to in foregoing deposition.*"

Mess. Bridgers, Mabray & Co. in acc't current with Armour, Lake & Walker.

		Dr.	Cr.	Interest.
1838				
Dec'r 15	To our acceptance your d'ft, date 12 inst. at 12 months, fav. W. & J. Garquitt, due 12–15 December, 1839, for	5,816 70	–	157 69
"	To our acceptance your d'ft, date 13 inst. at 12 months, fav. Slocumb, Richards & Co., 13–16 December, 1839, for	1,200 18	–	32 26
"	To our acceptance your d'ft, date 12 inst. at 10 months, fav. Blackwell & McGrath, due 12–15 Octo., 1839, for	1,124 45	–	45 71
"	To our acceptance your d'ft, date 12 inst. at 18 months, fav. William Alling, due 12–15 Octo., 1839, for	984 31	–	40 01
"	To commissions for accepting the above d'fts, amt'g to $9,125 64 a 2½ p. c.	228 15		
"	To cash paid drayage on your goods $5, labor in storing and turning out same $3 50, per order of J. K. Mabry	8 50	–	19 48
"	To 3 boxes garden seed, 540 papers	45 00		
"	" cash handed John K. Mabry	145 00		
" 17	" do. paid for $120 Un. B'k Miss. notes to pay Slocomb, Richards & Co. by directions of Mr. J. K. Mabry	115 20	–	12 26
" 19	To cash paid for insurance on $98 50 worth of merch. pr. st'r Little Red, (15th inst.) pr. order J. K. Mabry	124 62	–	13 27
1839				
Jan'y 24	To our acc'p. your d'ft favor Addison, Clendinen & Co., date 6 Nov'r, '38, at 6 mos. due 6–9 May, 1839	724 74	–	55 09
"	To commissions for accepting same at 2½ p. c.	18 12		
April 17	" sundry postages, your acc't	75		
"	" balance H. D. Bridgers and Mabry's acc't to 12th inst. as cash, assumed	1,682 82	–	137 55
				513 13

Account current—Continued.

		Dr.	Cr.	Interest
1838				
Dec. 13	By cash rec'd of J. K. Mabry proceeds $500 Miss. Un. post notes a 7½ p. c. discount -	–	462 50	49 00
1839				
April 17	By nett proceeds 80 bales cotton as pr. sale 12th inst. - - - - - - -	–	4,448 49	363 74
" 20	By this am't for int. off your d'fts fav'r Blackwell & McGath $1,124 45, and to Wm. Alling for $984 31, both due 12–15 Octo., 1839, taken up this day with balance of the proceeds of the 80 bales of cotton by the request of Col. S. Simmons and J. K. Mabry - -	–	80 78*	
	By balance carried down to debit - -	–	7,226 77	
		12,218 54	12,218 54	
"	To balance due A. L. & W. this sum, viz: May 6–9, 1839 - - 209 89			
	Decem. 12–15, 1839 - 5,816 70			
	" 13–16, " - 1,200 18			
		7,226 77		
	Pr. acc't current rend. to Col. Sterne Simmons & Mr. J. K. Mabry, int. acc't accepted.			
May 27	By nett proceeds 10 bales cotton as pr. sale 7th inst. - - - - - - -	–	584 75	44 72
Dec. 16	To commissions for advancing $6,427 28 of your d'fts due 12th inst. and this day not provided for by you, *a* 2½ p. c. - - - -	160 68	–	
1840				
April 13	By Maj'r J. N. Harper for cash balance due 15th inst. - - - - - - -	–	3,088 68	
"	By Stern Simmons do. do. do.	–	421 90	
"	To balance int. acc't to 15th inst. in our favor -	55 34	–	55 34
	By balance carried down to debit - -	–	3,347 46	
		7,442 79	7,442 79	513 13
April 13	To balance due A. L. & W. as cash 15th April, 1840, as pr. acc't remit'd by J. C. Baker, 22d April, '40 - - - - - -	3,347 46		
Aug't	To balance int. acc't to date - - -	78 40		
July 10	By J. N. Harper for balance due him - -	–	163 35	
"	" Sterne Simmons " do - -	–	184 97	
Sept. 26	" note with int. from 1st August, 1840, for this sum - - - - - - -	–	3,158 62	
	To balance carried below - - -	80 78		
		3,506 94	3,506 94	
	By this sum due B. M. & Co. for item marked * omitted in acc't when rendered last, it not having been posted - - - -	–	80 78	
	By return commission on $80 78 *a* 2½ p. c. -	–	2 02	
	" int. on $80 78 to 1st Aug't, 1840, *a* 8 per cent.	–	8 24	
	(*marked*) (over)		$91 04	

Account current—Continued.

*On the 20th April, 1839, at the time this acc't was made up for Sterne Simmons and John K. Mabray, the *cash* balance stood thus—	
Am'ts to the credit of Bridges, Mabry & Co. - - -	$4,910 99
Am't of debit exclusive of the d'fts not then due - - -	2,368 16
Cash balance to cr. B. M. & Co. - - - - - -	$2,542 83

Which balance of $2,542 $\frac{83}{100}$, Sterne Simmons and J. K. Mabry requested should then be used in taking up the d'fts to Blackwell and McGrath for $1,124 45, and William Alling for $984 $\frac{31}{100}$, which were not due till the 12–15 Oct., 1839. Armour, Lake & Walker paid said d'fts at 10 p. c. int. off, making $80 $\frac{78}{100}$, which still left a cash balance in favor of B. M. & Co. of $514 $\frac{85}{100}$, which was to be used towards taking up the next draft that matured, which fell due on the 6–9 May, 1839, in favor of Addison, Clendenin & Co.

The am't of int. which was deducted, say $80 $\frac{78}{100}$, was erroneously overlooked in rendering the acc't current afterwards to B. M. & Co. The note taken for the balance of the acc't should be credited for $91 $\frac{04}{100}$.

FELIX WALKER.

Annexed to deposition of F. Walker.

M. M. COHEN, *U. S. C.*

Which was objected to by the defendants' counsel upon the ground that the said Felix Walker is a party to the record—one of the plaintiffs in said cause—which objection was overruled by the court, and the said deposition permitted by the court to be read in evidence. To which opinion of the court, overruling said objection and permitting the said deposition to be read as evidence to the jury, the defendants except, and tender this their bill of exceptions before the jury have retired from their box, and pray that the same may be allowed and made a part of the record and proceedings in said cause, which is accordingly done.

S. J. GHOLSON. [SEAL.]

Certificate in bankruptcy, as referred to in the foregoing deposition:

"*In bankruptcy.*

United States district court, east district of Louisiana, New Orleans, May 12th, 1843.

Present, the honorable Theo. H. McCaleb, judge.

In the matter of Felix Walker, for the benefit of the act of Congress, Felix Walker, of New Orleans, having filed his petition, praying to be discharged in full from all his debts individually, and as a member of the commercial firm of Armour, Lake & Walker, and for a certificate of such discharge, pursuant to the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States,

passed August 19th, 1841;" and it appearing to the satisfaction of the court that the said bankrupt has bona fide surrendered all his property and rights of property, and that he has fully complied with and obeyed all the orders and directions which have from time to time been passed by this court, and has otherwise conformed to all the requisites of the said act; that proof of publication according to the rules of this court has been duly made, and notice given to the creditors; and it farther appearing that no written dissent to the bankrupt's discharge has been filed by a majority in number and value of his creditors who have proved their debts, and no opposition whatever has been made; no cause being now shown to the contrary, why the prayer of the petitioner should not be granted—it is therefore, by virtue of the act aforesaid, ordered and decreed by the court, that the said Felix Walker be, and he is accordingly, hereby fully discharged of and from all the debts owing by him at the time of the presentation of his petition to be declared bankrupt, to wit, on the 30th December, A. D. 1842. It is further ordered, that the clerk duly certify a copy of this decree, under the seal of this court, and deliver the same to the bankrupt when demanded.

Signed, T. H. McCALEB, *U. S. Judge.*

CLERK'S OFFICE, *May* 12, 1843.

"I, N. R. Jennings, clerk of the district court of the United States for the eastern district of Louisiana, do certify, that the above order and decree was this day made by the court, and duly entered of record.

In witness whereof I have hereto set my hand and the seal of the court, this 22 day of May, A. D. 1844.

[L. S.] N. R. JENNINGS, *Clerk.*
By JAMES R. JENNINGS,
Dy. Clerk.

"Annexed to deposition of F. Walker."

M. M. COHEN, *U. S. Commisioner.*

Bond for writ of error.

"UNITED STATES OF AMERICA,
Northern district of Mississippi. } *s. c. p.*

Know all men by these presents that we, Henry D. Bridgers, Stern Simmons, James H. Harper, and Jas. L. Calhoun, and Foster H. Thompson, are held and firmly bound unto Armour, Lake & Walker in the just and full sum of seven thousand four hundred and twenty-seven $\frac{64}{100}$ dollars, lawful money of the United States, to be paid to the said Armour, Lake & Walker, or their lawful attorney, executors, administrators, or assigns; for which payment, well and truly to be made, we bind [ourselves,] our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 18th day of June, A. D. eighteen hundred and forty-four.

The condition of the above obligation is such that whereas, at a term of the district court of the United States for the northern district of Mississippi, commenced and held in the town of Pontotoc, on the first Mon-

day in June, A. D. 1844, judgment was rendered by the said court in favor of the said Armour, Lake & Walker, against the said Henry D. Bridgers, Stern Simmons, and James N. Harper, for the sum of thirty-seven hundred and sixty-three $\frac{52}{100}$ dollars, and costs of suit; and the said Henry D. Bridgers, Stern Simmons, and James N. Harper have sued out a writ of error from the Supreme Court of the United States to *the* reverse the said judgment. Now, if the said Henry D. Bridgers, Stern Simmons, and James N. Harper shall prosecute their said writ of error to effect, and shall well and truly pay and satisfy the amount of said judgment, and all such damages, costs, and interest as the said Supreme court of the United States shall adjudge in the premises, if they, the said Henry D. Bridgers, Stern Simmons, and James N. Harper shall fail to make their plea good, then and in that case this obligation to be void, otherwise to remain in full force and virtue.

H. D. BRIDGERS, [SEAL.]
STERN SIMMONS, [SEAL.]
JAS. N. HARPER, [SEAL.]
JAS. L. CALHOUN, [SEAL.]
FOSTER H. THOMPSON. [SEAL.]

Sealed and delivered in presence of—

SAM. W. CARR,
Com'r for taking affidavits U. S. court.

"THE STATE OF MISSISSIPPI,
Yallabusha county:

I, William H. Brown, clerk of the circuit court of the county and State aforesaid, do hereby certify, to the best of my knowledge and belief, from inquiries made and investigations in the office of the Probate clerk of said county, that James L. Calhoun and Foster H. Thompson, whose names appear to the above bond, are entirely good and solvent for the amount of the judgment therein mentioned, and I would be perfectly willing to take them as security on a bond for that amount of money, or more.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at office, in Coffeeville, this the 20th day of June, A. D. 1844. [L. S.]

W. H. BROWN, *Clerk*,
By J. Q. RAYBURN, *D. clerk*.

Which said bond is endorsed as follows, to wit: "Bond approved and filed on this 20th June, 1844.

G. M. RAGSDALE, *Clerk*.

UNITED STATES OF AMERICA,
Northern district of Mississippi:

I, G. M. Ragsdale, clerk of the district court of the United States for the northern district of Mississippi, certify, that the above and foregoing 29 pages contain a full, true, and complete transcript of all the proceedings had in the aforesaid cause of Armour, Lake & Walker vs. Bridges.